



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

IAN A. BOWLES
Secretary

LAURIE BURT
Commissioner

THE OFFICE OF APPEALS AND DISPUTE RESOLUTION

June 19, 2008

In the Matter of Howard J. Rock

Docket No. WET-2008-042
DEP File Nos. 316-0580
Waltham

RECOMMENDED FINAL DECISION

On April 30, 2008, Rex Dean (the "Petitioner") filed with the Office of Appeals and Dispute Resolution ("OADR") a request for an adjudicatory hearing with regard to a Superseding Order of Conditions ("SOC") issued by the Northeast Regional Office of the Department of Environmental Protection (the "Department") to the Howard J. Rock (the "Applicant") with respect to property located at 305 Bacon Street in Waltham. The Presiding Officer issued an Order to Show Cause on May 12, 2008 on grounds that the appeal appeared to be late, followed by a second Order to Show Cause with additional grounds.

On June 18, 2008, after settlement discussions with the Applicant, the Petitioner filed a request to withdraw his appeal. Therefore, this appeal is now moot. Therefore, I recommend that the appeal be dismissed as moot. As a result, the Superseding Order of Conditions will become a final decision of the agency. See, *Matter of Osmun*, Docket No. DEP-04-958, 2005 Mass. Env. LEXIS 45, Final Decision – Order of Dismissal (May 12, 2005).



NOTICE

This decision is a Recommended Final Decision of the Presiding Officer. It has been transmitted to the Commissioner for her Final Decision in this matter. This decision is therefore not a Final Decision subject to reconsideration under 310 CMR 1.01(14)(e), and may not be appealed to Superior Court pursuant to M.G.L. c. 30A. The Commissioner's Final Decision is subject to rights of reconsideration and court appeal and will contain a notice to that effect.

Because this matter has now been transmitted to the Commissioner, no party shall file a motion to renew or reargue this Recommended Final Decision or any part of it, and no party shall communicate with the Commissioner's office regarding this decision unless the Commissioner, in her sole discretion, directs otherwise.

*This final document copy is being provided to you electronically by the
Department of Environmental Protection. A signed copy of this document
is on file at the DEP office listed on the letterhead.*

Laurel A. Mackay
Presiding Officer